106TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
106–832

PALMETTO BEND CONVEYANCE ACT

SEPTEMBER 7, 2000.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Resources, submitted the following

R E P O R T

[To accompany H.R. 2674]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 2674) providing for conveyance of the Palmetto Bend project to the State of Texas, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Palmetto Bend Conveyance Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) PROJECT.—The term "Project" means the Palmetto Bend Reclamation Project in the State of Texas authorized under Public Law 90–562 (82 Stat. 999).

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(3) STATE.—The term "State" means the Texas Water Development Board and Lavaca-Navidad River Authority jointly, unless Lavaca-Navidad River Authority has acquired the interests of the Texas Water Development Board prior to the time of title transfer, in which case "State" shall mean Lavaca-Navidad River Authority.

SEC. 3. CONVEYANCE.

(a) IN GENERAL.—The Secretary shall, as soon as practicable after the date of enactment of this Act and in accordance with all applicable law, and subject to the conditions set forth in sections 4 and 5, convey to the State all right, title, and interest (excluding the mineral estate) in and to the Project held by the United States.

(b) REPORT.—If the conveyance under section 3 has not been completed within 1 year and 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report that describes—

(1) the status of the conveyance;

(2) any obstacles to completion of the conveyance; and

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(3) the anticipated date for completion of the conveyance.

SEC. 4. PAYMENT.

(a) IN GENERAL.—As a condition of the conveyance, the State shall pay the Secretary the adjusted net present value of current repayment obligations on the Project, calculated 30 days prior to closing using a discount rate equal to the average interest rate on 30-year United States Treasury notes during the preceding calendar month, which following application of the State's August 1, 1999, payment, is currently calculated to be $45,082,675 using a discount rate of 6.070 percent. The State shall also pay interest on the adjusted net present value of current repayment obligations from the date of State's most recent annual payment until closing at the interest rate for constant maturity United States Treasury notes of an equivalent term.

(b) OBLIGATION EXTINGUISHED.—Upon payment by the State under subsection (a), the obligation of the State and the Bureau of Reclamation under the Bureau of Reclamation Contract No. 14–06–500–1880, as amended shall be extinguished. After completion of conveyance provided for in section 3, the State shall assume full responsibility for all aspects of operation, maintenance, and replacement of the Project.

(c) ADDITIONAL COSTS.—The State shall bear the cost of all boundary surveys, title searches, appraisals, and other transaction costs for the conveyance.

(d) RECLAMATION FUND.—All funds paid by the State to the Secretary under this section shall be credited to the Reclamation Fund in the Treasury of the United States.

SEC. 5. FUTURE MANAGEMENT.

(a) IN GENERAL.—As a condition of the conveyance under section 3, the State shall agree that the lands, water, and facilities of the Project shall continue to be managed and operated for the purposes for which the Project was originally authorized; that is, to provide a dependable municipal and industrial water supply, to conserve and develop fish and wildlife resources, and to enhance recreational opportunities. The State's agreement shall be reflected in the management agreement required by subsection (b) of this section.

(b) FISH, WILDLIFE, AND RECREATION MANAGEMENT.—As a condition of conveyance under section 3, management decisions and actions affecting the public aspects of the Project (namely, fish, wildlife, and recreation resources) shall be conducted according to a management agreement between all recipients of title to the Project and the Texas Parks and Wildlife Department that has been approved by the Secretary and shall extend for the useful life of the Project.

(c) EXISTING OBLIGATIONS.—The United States shall assign to the State and the State shall accept all surface use obligations of the United States associated with the Project existing on the date of the conveyance including contracts, easements, and any permits or license agreements.

SEC. 6. MANAGEMENT OF MINERAL ESTATE.

All mineral interests in the Project retained by the United States shall be managed consistent with Federal law and in a manner that will not interfere with the purposes for which the Project was authorized.

SEC. 7. LIABILITY.

(a) IN GENERAL.—Effective on the date of conveyance of the Project, the United States shall not be liable for damages of any kind arising out of any act, omission, or occurrence relating to the Project, except for damages caused by acts of negligence committed prior to the date of conveyance by—

(1) the United States; or

(2) an employee, agent, or contractor of the United States.

(b) NO INCREASE IN LIABILITY.—Nothing in this Act increases the liability of the United States beyond that provided for in the Federal Tort Claims Act (28 U.S.C. 2671 et seq.).

SEC. 8. FUTURE BENEFITS.

After purchase of the Project, the State shall not be entitled to receive any benefits for the Project under Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093)), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.).

PURPOSE OF THE BILL

The purpose of HR. 2674 is to provide for the conveyance of the Palmetto Bend project to the State of Texas.

BACKGROUND AND NEED FOR LEGISLATION

The Palmetto Bend Project, locally known as Lake Texana, is a multipurpose water project located in Jackson County, Texas, near Edna on the Navidad River, with the dam site about 4 miles above the confluence of the Lavaca and Navidad Rivers. Project features consist of Palmetto Bend Dam and Lake Texanna, including recreation facilities. Palmetto Bend Dam regulates natural flows of the Navidad River to provide municipal and industrial water supplies in the counties of Jackson and Calhoun. The Lavaca-Navidad River Authority (LNRA) has overall operation and maintenance responsibility for the facilities.

The Palmetto Bend Project was authorized for construction in 1968. Construction was completed by the Bureau of Reclamation in 1980 at a cost of approximately $92 million, $68 million of which is reimbursable. Besides public benefits of fish, wildlife and recreation, the Project provides a municipal and industrial firm yield water supply of 74,500 acre-feet/year to the cities of Corpus Christi and Point Comfort and to several industries. Water rights in the Project are owned 57% by Texas Water Development Board (TWDB) and 43% by LNRA. LNRA has operated the Project at its own expense since its completion.

The project beneficiaries (the TWDB and LNRA jointly) desire to obtain title to the Project from the United States to achieve greater flexibility and efficiency in operation and management of the Project. The Committee expects the project beneficiaries and the Bureau of Reclamation to enter into an agreement on how the project will be managed in the future.

COMMITTEE ACTION

H.R. 2674 was introduced on August 2, 1999, by Congressman Ron Paul (R–TX). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on Water and Power. On October 7, 1999, the Subcommittee held legislative hearings to further investigate the bill. On July 26, 2000, the Resources Committee met to consider the bill. The Subcommittee was discharged from further consideration of the bill by unanimous consent. Congressman John T. Doolittle (R–CA) offered an amendment in the nature of a substitute that clarified the future of the project's management, as well as made additional technical changes. The amendment passed by voice vote and then the bill, as amended, was ordered favorably reported to the House of Representatives by voice vote.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

The short title of the bill is the "Palmetto Bend Conveyance Act".

Section 2. Definitions

This sections defines several terms used in the language of this bill.

Section 3. Conveyance

This section directs the Secretary to transfer the project to the State of Texas, as soon as practicable after the date of enactment of this bill and in accordance with all applicable law.

Section 4. Payment

This section authorizes the Secretary to accept payment by the State.

Section 5. Future management

This section requires the State to continue to manage the project as well as to assume all federal responsibilities or commitments associated with the Project.

Section 6. Management of mineral estate

This section declares that all mineral interests in the Project retained by the United States on completion of the conveyance under section 3 shall be managed consistent with federal law and in a manner which will not interfere with the purposes for which the Project was authorized.

Section 7. Liability

This section outlines the liability of the United States once the transfer is complete.

Section 8. Future benefits

This section explains that after the transfer the State will not be eligible to receive any benefits under federal reclamation law.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of Rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that Rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of Rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in tax expenditures. According to the Congressional Budget Office, enactment of this bill will re-

sult in a net decrease in direct spending of $34 million over the 2001–2005 time period, with increased revenues of $51 million in 2001 and a loss of offsetting receipts of $4 million a year over the 2001–2035 time period.

3. Government Reform Oversight Findings. Under clause 3(c)(4) of Rule XIII of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform on this bill.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of Rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 10, 2000.

Hon. DON YOUNG,
Chairman, Committee on Resources,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2674, the Palmetto Bend Conveyance Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Rachel Applebaum.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

H.R. 2674—Palmetto Bend Conveyance Act

SUMMARY

H.R. 2674 would direct the Secretary of the Interior to convey the Palmetto Bend Reclamation Project to the Texas Water Development Board and the Lavaca-Navidad River Authority (or to just the latter, if it acquires the interests of the former). As a condition of the conveyance, H.R. 2674 would require the buyers to pay the net present value of the repayment obligation of the project. This money would be deposited in the Reclamation Fund. The bill specifies the discount and interest rates that must be used to calculate the net present value of the repayment obligation. The buyers would also have to agree to manage the project for its original purposes, which include providing water for both municipal and industrial users, conserving and developing fish and wildlife resources, and enhancing recreational opportunities. Once the project is conveyed, the Bureau of Reclamation would no longer pay for the operation and maintenance of the project.

CBO estimates that enacting H.R. 2674 would result in a net decrease in direct spending of $34 million over the 2001–2005 period. Estimated receipts of $51 million would provide savings in 2001, but those savings would be offset by the loss of offsetting receipts of about $4 million a year over the 35-year period from 2001 through 2035. Because enacting H.R. 2674 would affect direct spending, pay-as-you-go procedures would apply. CBO estimates that implementing this bill would have no significant effect on discretionary spending.

H.R. 2674 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). Certain local entities in the state of Texas probably would incur some costs as a result of the bill's enactment, but those costs would be voluntary.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 2674 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and the environment).

	By fiscal year, in millions of dollars					
	2000	2001	2002	2003	2004	2005
CHANGES IN DIRECT SPENDING						
Estimated budget authority	0	−48	3	3	4	4
Estimated outlays	0	−48	3	3	4	4

BASIS OF ESTIMATE

For this estimate, CBO assumes that H.R. 2674 will be enacted by the end of fiscal year 2000. We expect that any repayment obligations due in fiscal year 2000 will be paid and that the project will be conveyed in fiscal year 2001.

CBO estimates that enacting H.R. 2674 would reduce direct spending by $34 million over the 2001–2005 period, but would have very little net budgetary impact—on a present value basis—over the life of the Palmetto project. As a condition of conveyance, H.R. 2674 would require the buyers to pay the net present value of the repayment obligation on the project, using a discount rate based on the average interest rate on 30-year U.S. Treasury bonds in the month preceding the sale. CBO estimates that the buyers would pay $51 million in 2001 for the project, based on an estimated future repayment obligation of $72 million and a discount rate of 6.6 percent. Once conveyed, the government would forgo payments of roughly $4 million a year for the next 35 years.

Based on information from the Bureau of Reclamation, CBO estimates that the agency currently spends less than $500,000 each year for the operation and maintenance of the project. Hence, we estimate that any discretionary savings from the conveyance would not be significant. Likewise, implementing this bill would change the timing of deposits to the Reclamation Fund, but CBO expects that such changes would have a negligible effect on discretionary spending.

PAY-AS-YOU-GO CONSIDERATIONS

The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing such procedures, only the effects in the current year, the budget year, and the succeeding four years are counted.

	By fiscal year, in millions of dollars										
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Changes in outlays	0	−48	3	3	4	4	4	4	4	4	4
Changes in receipts	Not applicable										

Under the Balanced Budget Act (BBA), proceeds from nonroutine asset sales (sales that are not authorized under current law) may be counted for pay-as-you-go purposes only if the sale would entail no financial cost to the government. CBO estimates that the sale of the Palmetto Bend Project as specified in H.R. 2674 would satisfy the conditions in the BBA, and therefore, the proceeds would count for pay-as-you-go purposes.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

H.R. 2674 contains no intergovernmental or private-sector mandates as defined in UMRA. The conveyance authorized by this bill would be voluntary on the part of the Texas Water Development Board and the Lavaca-Navidad River Authority, and any costs they would incur to meet the conditions imposed by the bill also would be voluntary. In order to acquire the Palmetto Bend Reclamation Project, the Texas Water Development Board and the Lavaca-Navidad River Authority would have to pay the present value of their outstanding obligation to the United States and certain transaction costs. One or both of these entities also would have to assume responsibility for operating and maintaining the project.

PREVIOUS CBO ESTIMATE

On June 27, 2000, CBO transmitted a cost estimate for S. 1474, the Palmetto Bend Conveyance Act, as ordered reported by the Senate Committee on Energy and Natural Resources on June 7, 2000. The bills are nearly identical, and their estimated costs are the same.

Estimate prepared by: Federal Costs: Rachel Applebaum. Impact on State, Local, and Tribal Governments: Marjorie Miller. Impact on the Private Sector: Jean Wooster.

Estimate approved by: Robert A. Sunshine, Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

EEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

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